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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/464,582	12/16/1999	NELS LAURITZEN	PPC-694	7760

7590 03/19/2002

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EXAMINER

KIDWELL, MICHELLE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/464,582

Applicant(s)

LAURITZEN, NELS

Examiner

Michele Kidwell

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 01 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 13 – 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 13, the applicant has amended the claims to recite an absorbent garment kit. It is unclear what the applicant intends to claim as an invention because the disclosure continuously refers to an integral waist belt attached to a suspension sling. Since there are no other pieces disclosed outside of this integral waist belt attached to a suspension sling, there is no basis for claiming a kit.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 9 and 13 – 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamamoto et al. (US 5,607,416).

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With respect to claim 1, Yamamoto et al. (hereinafter "Yamamoto") discloses an integral disposable absorbent garment that may be worn about a human lower torso comprising a suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4), said suspension sling being suspendable in a wearer's crotch region (col. 5, lines 32 – 35) and a waist belt (2) having a first belt end secured to the suspension sling proximal end and a second belt end wherein the waist belt is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region and the second belt end attached to the first belt end at the suspension sling proximal end as set forth in col. 5, lines 21 – 35.

As to claim 2, Yamamoto discloses a suspension sling comprising a liquid permeable topsheet, liquid impermeable backsheet associated with the topsheet and an absorbent structure positioned between the topsheet and the backsheet as set forth in col. 3, lines 30 – 33.

With regard to claims 3 and 4, Yamamoto discloses a garment wherein the suspension sling further comprises an elastic element disposed in at least one suspension sling side margin as set forth in col. 3, lines 51 – 61 and in figure 1.

As to claim 5, Yamamoto discloses the garment wherein the waist belt is elastically contractible as set forth in col. 4, lines 24 – 40.

With reference to claims 6 – 8, Yamamoto discloses the garment further comprising a waist belt attachment system as a pressure sensitive adhesive and a mechanical fastener as set forth in col. 4, lines 40 – 50.

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As to claim 9, Yamamoto discloses the garment wherein the suspension sling distal end further comprises suspension sling fasteners as set forth in figure 1.

With respect to claim 13, Yamamoto discloses an absorbent garment kit that may be worn about a human lower torso comprising a waist belt having a first and second belt end (figure 3) with a first sling attachment location proximate the first belt end and a second sling attachment location disposed between the first and second belt ends (figure 1) and a disposable suspension sling for absorbing and containing body exudates (1) having longitudinally extending suspension sling side margins, a suspension sling distal end and a suspension sling proximal end (figure 4) wherein the suspension sling is attachable to the first and second sling attachment locations of the belt in a manner to suspend the suspension sling in a wearer's crotch (figure 1) and the waist belt (2) is capable of encircling a user's waist with the suspension sling suspended in the wearer's crotch region as set forth in col. 5, lines 21 – 35.

Regarding claim 14, Yamamoto discloses a garment wherein the second sling attachment location is disposed approximately midway between the first and second belt ends as set forth in figure 1.

As to claim 15, Yamamoto discloses a garment wherein the waist belt and suspension sling comprise a belt closure system as set forth in col. 4, lines 40 – 50.

With reference to claim 16, Yamamoto discloses a garment wherein the belt closure system comprises closure system elements (col. 3, lines 30 – 38) at least at the first and second sling attachment locations and proximate the suspension sling distal and proximal ends (figure 1).

With respect to claim 17, Yamamoto discloses a garment wherein closure system elements join the first sling attachment location to the suspension sling proximal end as set forth in col. 3, lines 30 – 38 and in figure 1.

### ***Response to Arguments***

Applicant's arguments filed February 1, 2001 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a waistband that is not fastened at the side of the wearer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to the applicant's arguments that Yamamoto fails to teach that the pad member end is attachable to an attachment location. The applicant is reminded that "attachable" means being capable of attachment. Yamamoto discloses an end which is capable of being attached, and is attached to an attachment location. Further, a preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. Since the term "kit" is found in the preamble, the examiner has considered the limitation. However, this term adds no

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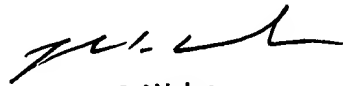
structural limitation to the claimed invention and is not thought to patentably distinguish over the prior art. To the extent that the applicant has disclosed a kit, the invention of Yamamoto may also be considered a kit because it comprises both a waist belt and a disposable suspension sling as claimed by the applicant.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele M. Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday thru Friday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John G. Weiss can be reached on 703-308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is 703-308-0858.

  
Michele Kidwell  
March 13, 2002

  
John G. Weiss  
Supervisory Patent Examiner  
Group 3700

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

**Failure to take corrective action within the set period will result in ABANDONMENT of the application.**